

## CHAPTER IV.

### RULES AND REGULATIONS FOR INSTALLING

### CONTROL DEVICES ON FREE FLOWING WATER WELLS

As announced in the October 1985 issue of the LOUISIANA REGISTER, the Rules and Regulations, stated herein, were prepared by the Louisiana Department of Transportation and Development, Office of Public Works, hereafter referred to as "Department", in accordance with R.S. 38:3094, paragraph (7), subsection A.

The Rules and Regulations, stated herein, became effective on November 1, 1985 and preempted the Rules and Regulations which had been in effect since June 1, 1977.

#### SECTION 4.1.0.0.

##### PURPOSE

The purpose of the Rules and Regulations, stated herein, is to conserve the ground water resources of the state by requiring that the owner install control devices on free flowing water wells (for glossary of terms, refer to Appendix I) producing in excess of twenty-five thousand (25,000) gallons per day. To accomplish this requirement, the owner shall install a flow control device on each free flowing water well in accordance with the Rules and Regulations stated in this chapter.

#### SECTION 4.2.0.0.

##### GENERAL RULES AND REGULATIONS

The Rules and Regulations, stated herein, apply to all free flowing water wells producing in excess of twenty-five thousand (25,000) gallons per day. A free flowing well is an artesian well which is allowed to flow, under natural conditions, at or above the land surface.

#### SECTION 4.2.1.0.

Exemptions. The following water well are exempt from the provisions of this chapter:

- Free flowing water wells producing twenty-five thousand (25,000) gallons per day or less.
- Water wells producing saline water in connection with oil and gas production.

#### SECTION 4.2.2.0.

Determination of Yield. The Department will measure the yield of the free flowing water well at no cost to the owner. If the owner disagrees with the measurement made by the Department and wishes to have a third party measure the yield, the costs shall be borne by the owner. The method used to measure the well yield shall be acceptable to the Department.

#### SECTION 4.2.3.0.

Wells In a State of Disrepair or Non-Use. If a water well is in such a state of disrepair that it cannot be used and a control device cannot be installed, it shall be considered abandoned and shall be plugged by the owner in accordance with the provisions of Chapter III, entitled "Rules, Regulations and Standards for Plugging Abandoned Water Wells and Holes".

#### SECTION 4.3.0.0.

##### RESPONSIBILITY OF THE OWNER

- A) The owner shall be the party responsible for installing a flow control device on each free flowing water well producing in excess of twenty-five thousand (25,000) gallons per day.
- B) The owner shall allow representatives of the Department to enter the property and visit the well site to measure the well yield, verify the installation of a control device, or inspect the completed work.

#### SECTION 4.4.0.0.

##### RESPONSIBILITY OF THE DEPARTMENT

- A) The Department will measure the yield of the free flowing water well at no cost to the owner.
- B) It shall be the sole responsibility of the Department to determine whether a control device should be installed on a well.
- C) At the request of a parish police jury or other governmental entity, the Department may make a survey to locate and report on the location of free flowing water wells.
- D) The Department may enter into a financial cooperative agreement with the parish police jury or other governmental entity to have control devices installed on those free flowing water wells which produce over twenty-five thousand (25,000) gallons per day.
- E) The Department shall, in no way, be held responsible for a well "sanding up" or failing to yield water after a control device is installed on the well.
- F) The Department, upon receiving information on the existence of a free flowing water well, shall proceed as follows:

1. Arrange to measure the yield of the well and determine whether a control device should be installed.
2. If a control device is required, the Department will issue an order to the owner to require the installation of a control device on the well within ninety (90) calendar days from the date of the said order. When the installation of the control device is completed, the owner shall apprise the Department, in writing, within thirty (30) calendar days after completion of work.

#### SECTION 4.5.0.0.

##### FAILURE OF RESPONSIBLE PARTY TO INSTALL A CONTROL DEVICE

If the owner fails to comply with the Department's order concerning the installation of a control device within the 90-day time period or does not offer, in writing, an acceptable alternative time interval for installing such a device, the owner will be considered in violation of R.S. 38:3094, paragraph (7) of subsection A, which permits a civil penalty of not more than One Thousand Dollars (\$1,000) a day for each day of violation and for each act of violation.

#### SECTION 4.6.0.0.

##### ENFORCEMENT ACTIONS

Provisions addressing enforcement of this Chapter appear in Louisiana Revised Statute 38:3096, as follows:

A) Whoever knowingly and willfully violates a provision of this chapter, or a rule, regulations, or order of the director or a board hereunder, shall be subject to a civil penalty of not more than One Thousand Dollars a day for each day of violation and for each act of violation, if a penalty for the violation is not otherwise provided in this chapter.

- 1) The place of suit to recover this penalty shall be selected by the director or board, as may be appropriate, in the district court of the parish of the residence of any one of the defendants, or in the district court of the parish where the violation took place.
- 2) Suit shall be at the direction of the director or board, as may be appropriate, and shall be instituted and conducted in his or its name by the Attorney General or by the District Attorney of the district under the direction of the Attorney General.
- 3) Whoever knowingly and willfully aids or abets a person in the violation of a provision of this chapter, or in any rule, regulation, or order made hereunder, shall be subject to the same penalties provided herein for the principal violator.

#### SECTION 4.6.1.0.

Falsification of Documents. Falsification of documents to evade regulations, as well as penalties for said falsifications, appears in Louisiana Revised Statute 38:3095 as follows:

- A) No person shall for the purpose of evading this chapter, or any rule, regulation, or order made thereunder:

- (1) Make or cause to be made any false entry or statement of fact in any report required to be made by this chapter or by any rule, regulation, or order made hereunder; or
- (2) Make or cause to be made any false entry in an account, record, or memorandum kept by any person in connection with the provisions of this chapter or of any rule, regulation, or order made thereunder; or
- (3) Remove out of the jurisdiction of the state, or destroy or mutilate, alter, or by any other means falsify any book, record, or other paper pertaining to the matters regulated by this chapter or by any rule, regulation, or order made thereunder.

B) Whoever violates this section shall be fined not more than Five Thousand Dollars or imprisoned not more than six months or both.

The penalty provision for falsification of documents required under the provisions of this chapter are therefore criminal in nature and will be enforced through the District Attorney having jurisdiction where said violation occurs. It should also be noted that utilization of the United States Mail in the falsification of documents constitutes a violation of Title 18 of the United States Code (Mail Fraud), and such violations will be referred to the appropriate United States Attorney.

#### SECTION 4.6.2.0.

Appeals. An alleged violator may appeal any order of the Department by requesting a hearing. The hearing request must be made to the Department, in writing, within thirty (30) calendar days of the original order and must be sent by "Certified Mail -- Return Receipt Requested". After receiving the

request, the Department will arrange a hearing to determine what other remedial action will serve to effect compliance with the rules and regulations.

